

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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 IN RE TREMONT SECURITIES LAW, STATE Master File No.
 LAW AND INSURANCE LITIGATION : 08 Civ. 11117 (TPG)
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 This Document Relates to: :
 : 12 Civ. 9057 (TPG)
 SPECTRUM SELECT, L.P., *et al.*, : 12 Civ. 9058 (TPG)
 : 12 Civ. 9060 (TPG)
 Plaintiffs, : 12 Civ. 9061 (TPG)
 : 12 Civ. 9062 (TPG)
 - against - : 12 Civ. 9063 (TPG)
 : 12 Civ. 9064 (TPG)
 TREMONT GROUP HOLDINGS, INC., *et al.*, :
 Defendants. :
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**THE MASSMUTUAL DEFENDANTS’
 AND OPPENHEIMER ACQUISITION CORP.’S JOINDER IN TREMONT’S MOTION
 FOR: (A) RELIEF FROM THE OPINION OF THIS COURT DATED APRIL 14, 2014,
 AND (B) LIMITED RELIEF FROM THE STAY ENTERED ON MAY 22, 2014**

Defendants Massachusetts Mutual Life Insurance Company and MassMutual Holding LLC (the “MassMutual Defendants”) and Oppenheimer Acquisition Corp. (“OAC”) hereby join the Motion of Tremont Partners, Inc. and Tremont Group Holdings, Inc. (“Tremont”) for: (a) Relief from the Opinion of this Court dated April 14, 2014, and (b) Limited Relief from the Stay Entered on May 22, 2014. (*See* Docket Nos. 960 and 961 in Civ. A. No. 08 Civ. 11117 (TPG).)

In an April 14, 2014 Opinion, the Court revisited its prior ruling dismissing plaintiffs’ state law claims as barred by the Securities Litigation Uniform Standards Act (“SLUSA”), 15 U.S.C. § 78bb(f)(2), in light of the Supreme Court decision in *Chadbourne & Park LLP v. Troice*, 134 S. Ct. 1058 (2014). The Court held that plaintiffs state law claims were not barred by SLUSA, but acknowledged that “there is also a chance that the Second Circuit may decide the SLUSA preclusion issue differently.” (*See* Docket No. 942 in Civ. A. No. 08 Civ. 11117 (TPG).) Shortly after the Court granted Tremont’s motion to certify an interlocutory appeal of

the April 14 Opinion, the Second Circuit issued the decision, *In re Herald, Primeo & Thema*, Nos. 12-156-cv(L), 12-162-cv(Con), 2014 WL 2199774 (2d Cir. May 28, 2014), which declined to revisit its prior decision affirming that SLUSA precluded state law claims based on investments in funds with exposure to Bernard Madoff, claims substantially similar to those at issue in this litigation. *See In re Herald, Primeo & Thema*, 730 F.3d 112 (2d Cir. 2013). The Second Circuit concluded that *Troice* “confirms” the holding that SLUSA precludes state law claims, like those at issue here, arising from investments exposed to the Madoff Ponzi scheme. *Herald*, 2014 WL 2199774 at *1.

As explained more fully in Tremont’s memorandum, which is incorporated by reference, the Second Circuit’s rulings in *Herald* are virtually on all fours with the facts here. As an intervening change of controlling law, *Herald* warrants reconsideration of the April 14 Opinion and entry of an order setting it aside.

For these reasons, MassMutual and OAC respectfully requests that this Court lift the Stay and grant the motion to vacate the April 14 Opinion.

Dated: June 4, 2014

Respectfully Submitted,

/s/ Carol E. Head
 Joseph L. Kociubes (*pro hac vice*)
 Michael D. Blanchard
 Carol E. Head (*pro hac vice*)
 BINGHAM MCCUTCHEN LLP
 One Federal Street
 Boston, MA 02110-1726
 Tel.: (617) 951-8000
 Fax: (617) 951-8736
 joseph.kociubes@bingham.com
 michael.blanchard@bingham.com
 carol.head@bingham.com
 Attorneys for Defendants Massachusetts
 Mutual Life Insurance Company and
 MassMutual Holding LLC

/s/ David A. Kotler
 David A. Kotler
 DECHERT LLP
 1095 Avenue of the Americas
 New York, New York 10036
 Tel.: (212) 698-3500
 Fax: (212) 698-3599
 david.kotler@dechert.com
 Attorneys for Defendant Oppenheimer
 Acquisition Corp.